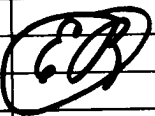


EXECUTIVE SECRETARIAT
ROUTING SLIP

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8	DDS&T				
9	Chm/NIC				
10	GC				
11	IG				
12	Compt				
13	D/OCA				
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Remarks

ER 89-4054

Executive Secretary

10 Oct '89

Date

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ASSISTANT SECRETARY OF STATE

for

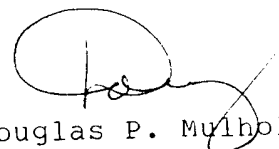
INTELLIGENCE AND RESEARCH

October 4, 1989

TO: Mr. Richard J. Kerr
Deputy Director of Central
Intelligence

Rich,

Attached, per our conversation
yesterday, are internal Department
guidelines on the implementation of
NSDD-38 and a copy of NSDD-38.



Douglas P. Mulholland

Attachments: as stated

✓ L-108-1R
NSDD 38

X-ref: L-108-1R
NSDD 38

6. NSDD 38

National Security Decision Directive (NSDD) 38, "Staffing at Diplomatic Missions and Their Constituent Posts", translates COM authority into a uniform process for limiting personnel at US missions to those essential in terms of effectiveness, security and economy. It assigns to COMs the authority to determine the size, composition, and mandate of all staffing operating under their authority. NSDD 38 became effective on June 2, 1982. National Security Directive (NSD) 2, signed January 30, 1989, confirms that NSDD 38 remains in effect.

NSDD 38 applies to all full-time, permanent, direct-hire USG Executive Branch employees, including Foreign Service Nationals (FSNs) and US military personnel under COM authority. A position is considered "permanent" if it is established without time limit, for a period of at least one year, or if it is encumbered for a year or more.

NSDD 38 does not specifically apply to contract personnel -- direct or indirect, commercial or personal services (PSCs), or private voluntary organizations (PVOs) -- or to Peace Corps volunteers. However, COM authority under law and the President's letter of instruction apply to all personnel paid directly or indirectly by the USG and/or personnel involved in carrying out some facet of USG policy. Any staffing questions in these categories are best resolved at post with the concerned agency head in the context of individual programs.

A) COM-Initiated Staffing Changes

COMs can and should initiate recommendations for changes in the size, composition or mandate of an agency's overseas staff whenever they believe that an agency's staffing is either inadequate or excessive to the performance of essential mission functions.

COMs may consider such methods as the following to reduce staffing:

- Bar the assignment of a replacement to fill a specific position which, in the COM's judgment, is excessive to program needs and USG objectives;
- Require an agency to reconfigure its mix of personnel skills to achieve a lower profile and/or more effective team composition; or
- Require an agency to make reductions (offsets) elsewhere before establishing new positions or activities.

COM initiatives either to increase or to reduce staffing should include thorough justification. M/MP will forward the COM's decision to the affected agency for its review. If the agency agrees, the case is closed. If it opposes the decision, M/MP will transmit the response to the COM for consideration. If the COM confirms the original decision, the issue will be referred to the Secretary of State, as described in Part C.

B) Agency-Initiated Staffing Changes

All Executive Branch agencies operating under COM authority, including State, must obtain COM approval on proposed changes in the size, composition or mandate of their staffing elements. Agencies transmit formal proposals to COMs either by submitting them to M/MP for forwarding, or by sending them directly to the COM with a copy to M/MP. Agencies should provide a complete justification for proposed changes. COMs should refer to M/MP any staffing requests which appear to have been sent without consultation with State. The only exception involves requests for changes in State staffing complements, which are forwarded to the COM by the geographic bureau or IO in consultation with M/MP and other bureaus as appropriate.

Agencies will keep M/MP informed as to current and projected staffing authorizations for each post. Agencies are to cooperate with the State Department in providing additional data for special reporting requirements.

C) Processing NSDD 38 Staffing Requests from Other Agencies

Once an agency submits a formal staffing change proposal:

- M/MP solicits the comments of appropriate bureaus within the Department and forwards them for the COM's consideration. The COM should refrain from making a decision until he/she has had the opportunity to review those comments. While NSDD 38 does not assign a formal role to State regional or functional bureaus, they should provide all pertinent information which will assist COMs in reaching their decisions.

Under the theory that COMs are best served by having as much information as possible about a staffing request even when the COM favors the change, the Department is not relieved from the responsibility of bringing to his or her attention all factors which the decision will affect. The time to point out potential problems is before the COM's decision. The process is ill-served when bureaus, assuming that COMs have already made up their minds and will disregard or resent contrary Department views, offer only superficial comments.

- The COM makes a decision, taking into account the views of the affected agency and State bureaus, substantive and policy considerations, and the adequacy of administrative support. A COM must be convinced that approval of a staffing change is essential to the mission's goals and work plans. COMs should consider both direct hire and contract hire implications. The need for additional staffing must be so compelling as to overcome the presumption that USG overseas presence should be reduced.

COMs should not approve proposals unless all substantive and administrative concerns are satisfactorily resolved. In particular, COMs should assure that they have written concurrence from the agency's Washington headquarters for any understanding reached at post. Otherwise, problems of jurisdictional overlap or chain of command may develop, and the mission would have to absorb the additional work load without new resources. The State Department is not in a position to provide additional resources to support other agency growth. If a COM disapproves a proposal, the disapproval should specify whether it is based on substantive or administrative support grounds.

In assessing the administrative impact of a proposed change, posts may find it helpful to complete an "impact statement" (sample attached at Tab 10) and submit it to M/MP and the geographic bureau or IO executive office. EUR and NEA have previously requested their posts to submit similar statements (86 State 379219 and 86 State 321767).

- The COM forwards the decision to the Department (Attention: M/MP), with copies to the appropriate bureaus and to the concerned agency. Approval of a staffing increase should include a justification of its necessity.
- If a COM and an agency head are unable to reach agreement, M/MP presents the case -- together with COM, agency, and bureau views -- to the Secretary of State for resolution, and, if necessary, to the President through the Assistant to the President for National Security Affairs. Disputes will be resolved in favor of the party arguing for the most efficient use of USG resources.
- M/MP advises COMs and agency heads of agreed-on changes in staffing levels, and maintains records of staffing levels.

SYSTEM II

90321

THE WHITE HOUSE

WASHINGTON

June 2, 1982

*National Security Decision
Directive Number 38*

STAFFING AT DIPLOMATIC MISSIONS
AND THEIR CONSTITUENT POSTS

This directive supersedes the directive of October 14, 1974 and subsequent directives governing the Monitoring Overseas Direct Employment (MODE) system.

In accordance with my letter to Chiefs of Mission, and the memorandum of September 22, 1981, conveying it to heads of Executive Departments and Agencies, all agencies with staffs operating under the authority of Chiefs of Mission will ensure that, in coordination with the Department of State, the Chiefs of Missions' approval is sought on any proposed changes in the size, composition, or mandate of such staff elements. Departments and agencies wishing to initiate changes should transmit their proposals to Chiefs of Missions in consultation with the Department of State. In the event the Secretary of State or his designee is unable promptly to resolve to the satisfaction of the parties concerned any disputes which may arise between Chiefs of Mission and Agency Heads or his designee, the Secretary of State and the other Agency Head concerned will present the differing views to me for decision through the Assistant to the President for National Security Affairs. Formal acknowledgement of changes approved by Chiefs of Mission or determined by me shall be transmitted to diplomatic missions by the Department of State.

Overseas staffing of elements with U.S. diplomatic missions abroad shall conform to decisions reached in accordance with the above procedures and decisions made through the budgetary process.

Departments and agencies will keep the Department of State informed as to current and projected overseas staffing authorizations for each diplomatic post, differentiating between the number of U.S. personnel and the number of foreign national personnel authorized for each post. The Department of State shall maintain a current record of staffing authorizations for each overseas post. Agencies will cooperate with the Department of State in providing data including any data needed to meet special reporting requirements.

The Department of State, in consultation with concerned agencies, will develop guidelines by July 1, 1982 for my approval to implement this directive.

Ronald Reagan